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MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of :  
Gardner et al. :  
Application No. 10/735,283 :  
Filed: December 12, 2003 :  
For: Systems, Devices and Methods For :  
Opening A Bottle Sealed with A Stopper and :  
For Sealing A Bottle :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The petition has **not** been reviewed on the merits because the petition has not been properly signed.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Applicant Gardner is the only person who has signed the petition. The petition has not been signed by all of the applicants. To the extent applicant Gardner purports to be the assignee of this application the requirements of 37 CFR 3.71 and 3.73(b) have not been met.

When an assignee files a continuation or divisional application under 37 CFR 1.53, other than a continued prosecution application (CPA) under 37 CFR 1.53(d), the application papers must: (A) refer to a statement filed under 37 CFR 3.73(b) in the parent application; (B) contain a copy of a statement filed under 37 CFR 3.73(b) in the parent application; or (C) contain a newly executed statement under 37 CFR 3.73(b).

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By FAX: (571) 273-8300  
Attn: Office of Petitions

By hand: Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.



Charlema Grant  
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Office of Petitions

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